

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH BRODIE; DANA MEDNICK,

Petitioners,

-against-

WARDEN WILLIAM S. PLILER,

Respondent.

1:22-CV-3821 (LGS)

ORDER TO ANSWER, 28 U.S.C. § 2241

LORNA G. SCHOFIELD, United States District Judge:

The Court, having examined the petition in this action, which Petitioners filed pursuant to 28 U.S.C. § 2241, hereby ORDERS that:

Petitioner Mednick’s claims for relief under Section 2241 are dismissed because, as Petitioner Mednick is not in custody, the Court lacks *habeas corpus* jurisdiction to consider her claims for relief. *See* 28 U.S.C. § 2241(c); *Simmonds v. INS*, 326 F.3d 351, 354 (2d Cir. 2003) (“A jurisdictional prerequisite for the granting of a writ of habeas corpus under 28 U.S.C. § 2241 is that the petitioner be ‘in custody.’”) (footnote omitted).

The Clerk of Court shall electronically notify the Civil Division of the U.S. Attorney’s Office for the Southern District of New York that this order has been issued.

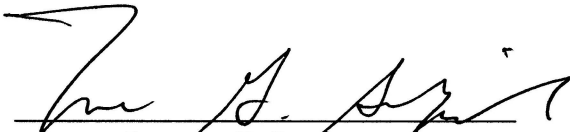
Within 60 days of the date of this order, the U.S. Attorney’s Office shall file an answer or other pleading in response to the petition. Petitioner Brodie may file reply papers, if any, within 30 days from the date that he is served with Respondent’s answer.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

Because the petition makes no substantial showing of a denial of a constitutional right with respect to Petitioner Mednick's claims for relief, a certificate of appealability will not issue as to those claims. *See* 28 U.S.C. § 2253.

SO ORDERED.

Dated: June 23, 2022
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE